

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICHARD ANDERSON,

Plaintiff,

vs.

ROBERT BANNISTER, et al.,

Defendant(s).

3:11-CV-0626-LRH (VPC)

**REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE**

This report and recommendation is made to the Honorable Larry R. Hicks, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4.

Pro se plaintiff, Richard Anderson, is currently incarcerated by the Nevada Department of Corrections in the Northern Nevada Correctional Center. Plaintiff filed a first amended complaint pursuant to 42 U.S.C. § 1983 alleging deliberate indifference to his medical needs (#13). Plaintiff's first amended complaint was properly screened under 28 U.S.C. § 1915A and was permitted to proceed (#14).

Defendants' filed a motion to dismiss plaintiff's complaint for failure to exhaust administrative remedies pursuant to the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a) (#27). In response to defendants' motion, plaintiff has moved to voluntarily dismiss his complaint without prejudice pursuant to Fed.R.Civ.P. Rule 41(a)(1) & (2) (#29). No opposition to plaintiff's motion was filed.

Therefore, the undersigned Magistrate Judge recommends that plaintiff's motion to voluntarily dismiss complaint without prejudice (#29) be granted and plaintiff's first amended complaint (#13) be dismissed without prejudice.

1 The parties should be aware of the following:

2 1. They may file, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule IB 3-2 of the Local Rules
3 of Practice, specific written objections to this Report and Recommendation within fourteen (14) days
4 of receipt. These objections should be titled "Objections to Magistrate Judge's Report and
5 Recommendation" and should be accompanied by points and authorities for consideration by the District
6 Court.

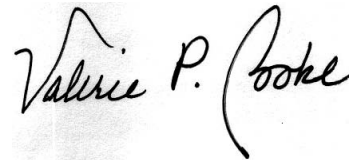
7 2. This Report and Recommendation is not an appealable order, and any notice of appeal
8 pursuant to Rule 4(a)(1), Fed. R. App. P., should not be filed until entry of the District Court's judgment.

9 **RECOMMENDATION**

10 For the reasons stated above, the undersigned Magistrate Judge recommends that the District
11 Judge enter an order as follows:

- 12 1. **GRANTING** plaintiff's motion to voluntarily dismiss complaint without prejudice (#29);
13 and
14 2. **DISMISSING** plaintiff's first amended complaint (#13) without prejudice.

15 DATED: January 3, 2013.

16 

17 _____
18 UNITED STATES MAGISTRATE JUDGE
19
20
21
22
23
24
25
26
27
28